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CONSTITUTIONAL REFORM.

AN ADDRESS

BY HON. FRANCIS JORDAN,

BEFORE THE

SOCIAL SCIENCE ASSOCIATION OF PHILADELPHIA,

February 15th, 1872.

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CONSTITUTIONAL REFORM.

ADDRESS BY HON. FRANCIS JORDAN, BEFORE THE SOCIAL SCIENCE ASSOCIATION OF PHILADELPHIA, FEBRUARY 15, 1872.

MR. PRESIDENT AND GENTLEMEN: It was not without reluctance I accepted the invitation of your executive committee, to submit to your association my views, in writing, on the amendments which should be made to the Constitution of the State, by the convention about to be called. That reluctance was based not only upon a want of leisure, but a doubt of my ability to do justice to the great subject. I heartily agree with your committee that "there is no question now before the people of this State more important than the changes to be made in our Constitution." The fact that the people have declared for a convention by a popular majority of about two hundred and fifty thousand votes, may be accepted as an unmistakable declaration that they are in earnest; and that every citizen is expected to do his duty. Even should I fail to accomplish what others might have done, or what might, under more favorable circumstances, be reasonably expected of myself, yet I hope, through the kind aid of your association, at least to attract the attention of others to the grave issues and duties before us, to excite discussion, reflection, and deliberation; and thus lead ultimately to wise conclusion and action. Hence I am here, to contribute my mite into the common treasury of knowledge; indulging the fond hope that many others may be found, who, out of their greater treasures, will cast in more abundantly.

"In American constitutional law the word *Constitution* is used in a restricted sense, as implying the written instrument agreed upon by the people of the Union, or of any one of the States, as the absolute rule of action and decision for all departments and officers of the government, in respect to all the points covered by it, until it shall be changed by the authority which established it, and in opposition to which any act or rule of any department or officer of the government, or even of the people themselves, will be altogether void."

In this discussion we have nothing to do with the Constitution of the United States, except to bear in mind its superior authority as to all powers and jurisdiction conferred by it; and what is written must be construed as applicable only to the Constitution of the State, unless otherwise expressed.

Long ago our wise and patriotic forefathers laid the strong political foundations of our Commonwealth, upon the grand and fundamental principles of equality and justice—"Virtue, Liberty and Independence." By the Constitution, they distributed the powers of the Government into three branches—the legislative, the executive, and the judicial. It is not now proposed, as I understand it, to destroy or remove these ancient landmarks, to reorganize our Government, or to pull down and reconstruct our social fabric; but rather to strengthen the old foundations, to fortify against external violence and internal distraction, to impose further restraints upon ourselves and our agents, and to utilize and adorn the noble structure in every part. Under this view of the situation, whilst keeping in remembrance established elementary principles, we may safely dispense with all profound disquisitions upon the science of abstract government, or the philosophy of republicanism; and accept and build upon that wise system of organic law which we inherited as our birthright, making only such alterations and improvements as time, experience, advanced intelligence and expansion have made necessary. We know by both observation and experience that every alteration is not an amendment, nor every change an improvement. "Prove all things, hold fast that which is good," is an apostolic injunction, as sound in constitutional law as in theology. Our people are slow to move for radical reforms; and are apt to manifest but little patience or respect for those who clamor for reform gene-

rally, but who are unable to point out clearly existing evils, and plausible remedies for their correction. We live in a practical and utilitarian age; and in the nature of things, the people being the source of all political power, the government "of the people, by the people, and for the people," must conform to and embody the popular ideas, sentiments and convictions. In the vegetable, mineral and animal kingdoms, growth and development are gradual. In our every-day life the greatest amount of happiness results from a proper performance of a multitude of small duties; and so, I apprehend, it will be found that the greatest practical good, and the best constitutional reform, will result from a number of what many might consider, viewed separately, as comparatively small amendments. The man who will do nothing until the opportunity to do something great occurs, may wait all his life in vain; whilst he who does with diligence whatsoever his hand findeth to do, may accomplish much. This spirit actuated those who preceded us; and in wisdom we may follow their example. The first Constitution of the State was adopted in 1776; it was amended in 1790, and again by the Convention of 1838. Since then more than thirty years have elapsed; and in that period no less than seventeen amendments have been added, at sundry times, by joint resolutions of the Legislature, approved by popular vote. Another Constitutional Convention having now been ordered, the practical question is, what further amendments should it adopt?

I do not understand your association as expecting the *forms* of suggested amendments to be submitted; but rather an enunciation of the principles and ideas which should be incorporated into the Constitution. In accordance with these elementary principles, and general views of the subject, I proceed to enumerate the amendments I have to suggest; accompanying them only with such arguments and explanations as will make them intelligible, and, it is hoped, commend them to public favor.

I. The Constitution should require the Legislature to enact general and uniform laws on every subject which can be so regulated; and prohibit local and special legislation in all cases where the same ends can be attained by general laws.

Special legislation is one of the greatest evils of our system, and of our generation. In a recent letter, upon constitutional

reform, in reply to sundry gentlemen of this city, some of whom, I believe, are members of this association, I gave my views, arguments and illustrations on this subject so fully, it is deemed unnecessary to repeat them. In this connection, however, it is considered proper to guard against misapprehension. There are many who favor the principle of conferring large jurisdiction upon the courts; enabling them to do much of what is now accomplished by special and local acts of the Legislature. I differ in opinion with all such. On the contrary, whilst many of these things can be properly done by the courts, as at present, I believe we have gone quite far enough in this direction. I have an abiding faith in the soundness of the system by which the powers of government are divided into the legislative, executive and judicial departments; and it follows that each of these three coordinate branches should, as a general rule, be confined to its legitimate and natural functions. All encroachments by the one department on the domain or jurisdiction of the other, are departures from sound and established principles; and if not arrested, or confined to narrow and exceptional limits, will destroy the symmetry of our whole system; and sooner or later will result in disastrous consequences. Special legislation has demoralized the Legislature, because it has subjected it to temptations greater than it could bear. The judges of our courts are but men, of like passions and infirmities; and it is unwise to subject them to the influences and temptations by which others have fallen. "Lead us not into temptation," is an utterance of divine wisdom; and the principle is applicable at all times, and to all classes.

II. Our Constitution needs amendment in that part which confers authority upon the subject of education. At present it reads thus:

"ART. VII., SEC. I. The Legislature shall, as soon as conveniently may be, provide by law for the establishment of schools throughout the State, *in such manner that the poor may be taught gratis.*"

In a democratic or republican government principle and policy unite in joint protest against all distinctions and discriminations among the people. All such classifications are odious in themselves, and apt to bring any laws which embody them into disre-

pute, and make them difficult or impossible of enforcement; and especially where such distinctions are made between the rich and the poor. This was the main reason why our early public school laws were a failure; and the present Constitution, though a great advance in the right direction, falls far short of what it ought to be in this respect. Instead, therefore, of the equivocal and invidious provision just cited, I would substitute the clear and manly declaration of the new Constitution of the State of Illinois, as follows:

"The General Assembly shall provide a thorough and efficient system of free schools, whereby all the children of the State may receive a good common school education."

III. What are known as the sinking fund sections of the Constitution should be amended.

These were amendments of 1857; and their history shows how impossible it is to foresee, and properly provide for the indefinite future. The balance in the sinking fund on 30th November, 1869, was $2,815,545.20, whilst the balance in the Treasury, at the same date, was only $1,400,862.49. The balance in the sinking fund 30th November, 1870, was $3,014,529.40, and the balance in the Treasury, at the same time, was only $1,302,742.82. The balance in the sinking fund 30th November, 1871, was $3,478,-938.40, and the balance in the Treasury, at same date, only $1,476,808.59. It thus appears that the balance in the sinking fund is annually increasing, and that the State Treasury is annually becoming more indebted to the sinking fund. The State Treasurer is annually using the moneys in the sinking fund to defray the ordinary expenses of the Government, notwithstanding an existing constitutional prohibition, and the fact that by the seventh section of the act of Assembly creating the sinking fund it is made a criminal offense to use this fund, or any part of it, for any other purpose than the payment of the public debt and interest thereon. This part of the Constitution, and the act to enforce it, are habitually violated by a sworn public officer. The State Treasurer is compelled either to disregard the Constitution and the statute, or prejudice the credit of the State, by refusing to pay current demands on the treasury when there are no funds on hand to meet them, except those in the sinking fund; and practically the former alternative is always chosen. Nothing so

induces a contempt for, and disregard of, the law, whether constitutional or statute, as its constant violation with impunity by the sworn officers chosen for its execution; and it can require no further argument to demonstrate the propriety and necessity for some change to remedy this condition of things.

IV. That part of the Constitution regulating the election of justices of the peace and aldermen should be so modified as to adapt its provisions to the public convenience.

It now declares that these officers "shall be elected in the several wards, boroughs and townships, at *the time of the election of constables.*" In practice, this constitutional fixation of the day on which these elections must be held is found very inconvenient in the filling of vacancies; especially in those districts in which but one justice or alderman is authorized by law. In effect, ordinary vacancies, by death, resignation, removal o otherwise, and these offices in newly created districts, have often to go unfilled for almost or quite a year. This might be regarded by some as of minor importance; but the frequency of the annoyances arising from this cause, and the numbers prejudicially affected thereby, occasion more inconvenience and hardship than other constitutional defects of apparently much greater magnitude. Sundry statutes have been passed in the vain attempt to obviate this difficulty; but it must be apparent nothing but an appropriate amendment to the Constitution is adequate for the purpose.

V. The State Treasurer should be elected by the popular vote, and not by the Legislature.

Sad experience has demonstrated our present mode of election to be unwise. As administered, this is the most profitable office in the State; and as a consequence great efforts are made to secure it. When the Legislature meets, and long before, the members elect are importuned by the candidates and their friends; and it is notorious that legislators are bought and sold in the unseemly and disgraceful scramble which occurs annually at the election of State Treasurer. The Legislature is demoralized at the very commencement of the session; the people of the State are humiliated; and the whole performance is a scandal upon the fair fame of the State. Let us save ourselves from all this, by a proper constitutional amendment, making the treasurer elective by popular vote.

The term should be two years; and for obvious reasons the person elected should thereafter be ineligible, at least until one full term had intervened.

VI. The extension of official terms by legislative enactment should be prohibited.

This is one variety of special legislation; but so peculiar, and of such importance, as to justify special notice. Almost every session of the Legislature is occupied more or less by the consideration of bills of this character. Sometimes they include only one officer, and at others a whole class. The incumbents having been elected, or appointed, as the case may be, for the prescribed legal terms, become distrustful of their constituents, or of the appointing power, and appeal to the Legislature to grant them second terms, or at least an extension of existing ones. Combinations are formed, the practice known in legislative parlance as log-rolling is invoked, and every fair and unfair means used to accomplish desired results. Such efforts and practices are departures from all sound and just principles of legislation; the accompanying scenes and conflicts are unseemly, and sometimes disgraceful; and the whole evil should be sternly prohibited by constitutional amendment.

VII. The compensation of the members of the General Assembly should be fixed by the Constitution.

I have known representatives of character and intelligence, who on all ordinary questions might be regarded as men of principle; who could be safely relied upon for an honorable vote in almost any emergency, and yet who could not resist the temptation to vote for an increase of pay whenever the opportunity was presented. Others there are, of less principle but more cunning, who on such occasions are found exhausting all their ability and ingenuity to secure the coveted increase; and at the same time to make up such a record for themselves that their constituents may not be able to hold them responsible. Such things belittle representatives in the estimation of the public, and in their own estimation; and whatever does this, or has this tendency, is a public evil, and ought, if possible, to be remedied. In this case it can be done by removing the temptation. Let the compensation, therefore, be firmly settled in the organic law; or at least so adjust-

ed than any legislation on the subject shall not apply to those who make it.

VIII. The official terms of the members of the Legislature should be definitely fixed by the Constitution.

In the financial crash of 1857, the banks all suspended specie payments, and it was conceded the Governor should call a special session of the Legislature. But the October election was just at hand, and the question arose, who compose the Legislature?—or, rather, who will compose it after the second Tuesday of October next? It was contended by some that the members already elected continued to be members until the time of meeting fixed by the Constitution, in January. Others argued that by the October election the terms of all old members of the House not re-elected *ipso facto* expired; and that under any proclamation of the Governor for an extra session the new members would take the places of their predecessors. This grave and knotty question was evaded at the time, by the Governor calling an immediate session, on short notice, taking it for granted the members would hurry through the business for which they were specially convened, and adjourn before the election. This was accordingly done; but the important question raised remained unsettled, and so remains to this day. Suppose a reckless administration in the last year of its power, and the old members of the Legislature in sympathy with it on certain measures, and the people at the October election to have repudiated the measures and the members of the Legislature who were identified with them. What is to hinder the Executive, immediately after the election, or even before it, when the handwriting was already visible on the wall, from convening the old Legislature in extra session, and thus enabling them to consummate their pet schemes, in defiance of the popular will? Even after the election the newly chosen members could not legally attend the place of meeting without notice or authority; and if they made their appearance at the place of meeting, it would only be to find others in their places, and with the power to exclude them. It may be said this is not a supposable case—that no Executive would presume or dare to do this. But why not? Would not such action be in strict accordance with the very letter of the Constitution? Under our theory and system of government the Legislature may lawfully do

what it is not prohibited by the Constitution from doing. Constitutional provisions are but restraints upon the powers and agents of the government—in the case supposed, on the Executive and Legislature—and to argue that such restraints are not necessary, is a begging of the question, and a virtual admission that constitutions are unnecessary. In this paper the contrary is assumed. It is assumed also that all apparent defects should be remedied when practicable; and that the people should be thus wisely protected from threatened dangers, lest in times of public commotion, political excitement and party strife, the evils break forth in confusion, anarchy and blood.

The particular day on which the legislative term should begin and end is of secondary importance; but I would suggest the Tuesday next after the election. In this age of mails and telegraphs one week would enable all necessary returns to be made; and the representatives last chosen should be the only ones thereafter to meet and act.

IX. Our Constitution should provide different regulations for filling vacancies in the Legislature.

Disclaiming all intention to cast reflections on any person or party, it must be confessed our present Constitution does not work satisfactorily in this particular. For example and illustration take the Fourth Senatorial District in this city of Philadelphia. The Honorable George Connell died in October last, after the election of that month, thus creating a vacancy. This death was publicly known at the time, and ever since, to every intelligent person in the State; and yet no practical steps were taken toward filling the vacancy so created until the meeting of the Legislature, more than two months afterward. As a consequence, the people of one-fourth of your large city were unrepresented in the State Senate for a whole month, or one-third of an average session, and the great principle of republican representative government, so far as that district was concerned, were a practical failure.

The same thing has occurred, and may again occur any day, in the House of Representatives. There is no necessity or reason for this deprivation of equal rights; at least none which cannot be remedied by an amendment to our organic law, requiring the elections in such cases to be called by the Speaker of the Senate,

or House, as the case may be, or as in other States, by the Governor, within a fixed number of days after the decease of the member, or the occurrence of the vacancy. Ten days is suggested as reasonable. To wait until the meeting of the Legislature to get official notice of the death or vacancy is sacrificing substance to form, and depriving the district of its rightful representation on a mere question of etiquette.

X. A different mode should be provided for choosing the Speaker or presiding officer of the Senate.

This part of the machinery of our Government works badly; and is in great need of radical amendment, or thorough repairs. In 1864, the Senate remained unorganized for almost two months for want of a Speaker, and, during the present session, we narrowly escaped a similar calamity. Observation and costly experience have demonstrated that whenever from this, or any other cause, the two branches of the Legislature are unable to progress with the public business, it is a public misfortune. Inflamed party excitements and conflicts are apt to ensue, prejudicial to the public interests; and whatever is taken off one end of the session is sure to be added to the other; thus prolonging the duration, and greatly increasing the expenses of the session, with no compensatory public good. Surely the wisdom of this age is more than adequate to the correction of so palpable and unmitigated an evil.

XI. The qualifications of electors should be changed, in two particulars:

1. The rights of citizens being no longer dependent on color, the word "white" should be stricken out from the qualifications of the electors, in conformity with the Constitution and laws of the United States, which are "the supreme law of the land * * * anything in the Constitution or laws of any State to the contrary notwithstanding." Our State has already approved the amendments to the Constitution of the United States which make the word inoperative in this connection; and we owe it to the progressive spirit of liberty to discard the qualification as a useless relic of a by-gone age.

2. Instead of a residence within the election district for ten days preceding the election, as now prescribed, thirty days should be required. Neither the Constitution of 1776 or of 1790 prescribe any

definite period of residence; but the present regulation was one of the amendments of 1838. Experience has demonstrated it a mistake. The purity and equality of elections are essential elements of republican government. Our recent history has shown more fraud at elections from this source than from any other. It operates as a perpetual temptation to designing and unscrupulous men. A surplus of voters in one district can be removed on the eve of an election to another where they are wanted; and interested parties can always be found willing to pay the boarding for ten days, and sometimes wages also, to insure the votes of those colonized. But make the required residence thirty days, or upward, and you thereby make it too expensive for practical purposes; and accomplish much to insure the purity of the ballot-box. The inconvenience of a few itinerants should not be permitted to outweigh the graver considerations of honest elections and the public good.

XII. The date of our annual fall elections should be changed from the second Tuesday of October, to the Tuesday next after the first Monday of November.

In my recent letter on this subject of constitutional reform, I suggested this amendment, "to prevent what is called colonization from surrounding States, and to dispense with one election every fourth year." These reasons not only remain in full force, but since then have acquired additional strength. Under the Constitution of the United States, Congress has the right to fix the times for the election of President and Vice-President, and for the national House of Representatives. At an early day this power was exercised as to presidential elections; and Congress at the present session has enacted that after the year 1876 members of the national House of Representatives shall be chosen, in all the States, on "the Tuesday next after the first Monday in November." Unless we change, therefore, in compliance with this Congressional requirement, we will have two fall elections every alternate year. The surrounding States of New York, New Jersey and Maryland have all anticipated us in this change; and that which was heretofore optional, appealing only to our discretion, has now become imperative.

These twelve propositions are considered important; and the whole, if adopted, would add greatly to the value of our Consti-

tution. Others, less manifest perhaps, but not less valuable, might be submitted, did time and space permit; but the number of pages of this manuscript admonishes me to stop, at least for the present. We live in an age when the great medium of communication with our fellow-men is the public press. The demands upon it are such it often refuses publicity to anything except short communications. One object we all have in view is to enlighten public opinion; and to this end a short address, extensively published, is vastly more effective than a long one unpublished, or presented to the world in partial extracts. It is probable some present expected me to treat on other questions and amendments than those I have enumerated; and such a course would have afforded me great pleasure, but for the considerations just mentioned. Moreover, I intended that what I submitted should be as directly responsive to the invitation of your committee as practicable. The request was to "prepare a paper on the amendments to the Constitution which ought to be submitted to the approaching convention." This is precisely what I have done, to the best of my ability; and so far as practicable in one communication of reasonable length.

To some it might have been more agreeable to have listened to a dissertation on what is known as cumulative voting or minority representation, on the advantages of biennial sessions of the legislature, on an increase of the number of Senators and Representatives of the General Assembly, or upon a change in the tenure and mode of choosing our judiciary. These are all interesting and important questions; but are more or less theoretical and speculative, and open wide fields for argument, investigation and discussion; and the approaching convention may or may not consider them favorably. But, to do justice to any one of them, or to the person who would advocate or oppose them, would require a paper as long as the one now presented for your consideration; and such a paper, in my judgment, however able or learned, would not be a compliance with the request made by your committee. If I have erred in this view of the situation, I regret it; but the error has been made on due reflection, and for it I alone am responsible. It is fortunate, also, that the mistake, if made, is open to correction, by all who see proper to avail themselves of the opportunity.

DEBATE.

After the reading of the paper of Mr. Jordan, Mr. W. Heyward Drayton took the chair and initiated a discussion of the excellent paper just read by Mr. Jordan.

J. Ross Snowden said: One or two amendments have occurred to me, which I will not discuss but merely mention. The twelve spoken of by Mr. Jordan are very important and interesting, but as the object of this association is to bring forth propositions for discussion, I thought I would suggest one or two further. First. I would have divorces prohibited by the Legislature entirely. I would increase the number of senators and representatives. I would have biennial sessions of the Legislature. I I would have the judges' tenure of office restored to good behavior. [Applause.] I would have general laws and no special laws enacted. I want upon that point to say one word. If any of you look at the acts of assembly for 1871 you will find it composed of 1,670 pages—as large a volume as Purdon's Digest—and in that large volume of laws there are 82 public laws, only, and 1,240 private laws. It has been well said by some one, that as you multiply laws you multiply errors, and it was well said by Mr. Jordan, that legislation on the subject of local laws has ceased to be legislation at all. It is no longer legislation. A member of the Legislature rises and says, this is a local law. If any member of the House or Senate objects, ~~why~~ he is pointed at by every one as interfering in local legislation. So it comes to this: that a single member from a single county legislates for that county, and the legislature ceases to be a deliberative body. That error should be corrected by the general law. I do not concur in the idea that the courts should not possess more power in reference to what he calls legislation. We have extended the power of courts to the incorporation of boroughs, for instance. Yet in the Legislature you will have acts of incorporation of boroughs, because there are some provisions in the laws relating to boroughs that do not extend to the courts. For instance, a borough must be made a separate school district, whereas it may not be prepared to change the school district. The farmers around the village may

wish to send their children to town, and yet the courts have no power to guard that incorporation. So with reference to the sale of liquor; the courts have not the power to exclude it, yet they ought to have that power, and they ought to have the power of incorporation under a general law, relieving the Legislature from this special legislation. Then I would put in a provision to this effect: disfranchisement in all cases of corrupt practice relating to legislation and judicial administration. [Applause.] I would put in a provision to disfranchise upon every case of false practice in reference to legislation or any judicial proceeding. You know how it is in reference to elections in this city; you know how loud the cry of fraud is. These men, if fearing the loss of franchise upon conviction, would be likely to be more guarded. At all events I think it would be a good provision.

Then I think I would make a modification of the pardoning power [applause], which may be abused. It has been abused. I would have some restriction upon that. I would say this in reference to the number of members of the Legislature. I think it would be better to have the number increased; you thus diminish the influence and power of wrong motives and you would probably get a better class of men. I was about to make a suggestion. I think it would be of advantage to have the seat of government in Philadelphia, and I will tell you why. You go to Harrisburg; you see all the members of the Legislature gathered together in two or three hotels. They are congregated together and are accessible to everybody. You can see in one evening, perhaps, half the members of the Legislature. Bring them to this large city, and you could not see them at all. They would be scattered about and would not be accessible; besides, it would be an advantage to have them in a large city where they would have some places of amusements, and not confined to those influences which lead to corruption. Moreover, I would say that we would have a better class from this city, and a better class from all sections of the State. There would be a better class of men anxious to come to Philadelphia and spend the winter season. I have often thought it is best to have the seat of government in the largest city. There are many other points I might speak of, but that is sufficient. There is one little rule I would like to introduce. We have the rule in our equity practice, that no bill should be intro-

duced in the Legislature until printed. We know how, sometimes, they go in one thing and come out another. If any amendments are proposed, they should not be adopted until they are printed. It might delay legislation a little, but I tell you delay of legislation is sometimes beneficial. [Applause.]

Mr. Van Tronk thought it would be well if we had something in the Constitution by which we could curb corporations. They might be limited to twenty years. The Reading Railroad, by its charter, had a monopoly of the coal trade. It would be well if we had a rule like that in Switzerland, by which the people have to pass upon every law before it goes into effect. It would be a great benefit to Pennsylvania to have ninety-nine-hundredths of its legislations wiped out.

J. Vaughn Darling said: I have two suggestions to make, both of which have received, to some degree, the sanction of foreign jurists. The one is this, that in order to make it possible for the actual workers in the community to exercise their legitimate influence in the selection of government agents, it is imperatively necessary to decrease the number of candidates, and simplify the machinery for their nomination and election. It is at the primary and ward meetings that the first and most serious attack upon the integrity of party nominations is made. No attendance at the polls can remedy this; nor is any political reform more than a superficial effort that does not begin its work at the primary meeting. Now, it has been said by one of the most acute of English thinkers, that the most remarkable phenomenon presented by American society is the almost complete divorcement of the duties of citizenship from those of social and commercial life. The most intelligent voters are those who wield the smallest influence, and the interest manifested in the practical management of government affairs is in inverse ratio to the intelligence. That this is, in a great degree, true, must unfortunately be admitted. But the evil is remediable. Not, however, by attempting to force the thinking, working men of the community into active participation in politics. Such a thing, in the present condition of politics, is impossible. No lawyer or physician in full practice; no merchant, or banker, or broker could devote the necessary time without a serious injury to his profession or business, and whilst in times of great excitement, such as the pres-

ent, when men are forced to stem a tide of political corruption and governmental mismanagement that threatens to overwhelm them, the classes of which we have been speaking do rise to the height of the exigency; yet there follows necessarily a reaction, in which the old story is told over again, and the community suffers the old exactions and corruptions until a new crisis arrives. And this must always be so, until the machinery for the selection of our officials is so simplified that some comparatively small period of time will suffice to discharge the duty of voting intelligently. In the first place, some simple method of securing *nominations* should be adopted; although this is hardly within the province of a constitutional convention. In the second place, the *number* of *elections* and of *officers to be voted for* should be decreased. One of the evils of our present system is the election of servants in organized departments whose chief is, in theory, responsible for the official acts of his subordinates, but who cannot practically be made accountable for the acts of persons whom he did not select.

The second suggestion I desire to submit is, that *municipalities* should not hold their legal existence at the will of the Legislature, and that in all questions that do not involve personal rights, the voting power of each citizen of the municipality should be increased in ratio with his ownership of property. It is evident enough that in the direction of the internal life of a city there should be a closer relation between the governed and the governing power than is possible or desirable in the general government. The subject is too large to be more than touched upon here. But, while certain general powers must of necessity be lodged in the Legislature, there should be certain modified powers given to a city, such for instance as the regulation and location of its streets, the settlement of its local tax rate, and the control of local charities. By treating a city as a legal entity, with a constitutional existence, these results may be accomplished. Thus, whilst the right of eminent domain must always continue in the Legislature, there is no reason why compensation should not be given to a city for the occupation of its highways, by virtue of that power, as well as to the citizen whose land is occupied. As to a property vote upon questions of property, there is little difficulty. It is a most mistaken proposition that upon the settlement

of a tax upon real estate, the man who owns no foot of land should have the same voice as he upon whose land the tax is to fall."

The following is an abstract of Mr. Dwight's remarks:

I did not intend to take any part in the proceedings this evening, but the reference by the last speaker to municipalities leads me to do so. It seems to me that a constitutional convention ought to do something both to restrict the amount of indebtedness which cities in this State may incur, and especially to enable those who give the means to carry on municipal government, to determine how their moneys shall be expended. Any man who watches the politics of a city sees very soon what a struggle there is on the part of men who have not got money to get control of the funds raised by taxing those who have got it. And there is not so effectual a way to prevent their attempts as to give to tax-payers the power of checking raids on the treasury. This subject, so far as I know, was first discussed in an able paper which appeared in the *Nation* last summer, when people in New York were stirred up so deeply about municipal corruption. The plan suggested by it was, that the upper branch of the municipal legislature should be composed of real estate owners, whose buildings were taxed, and that those who voted for them should possess the same qualifications.

The rights of manhood suffrage as at present existing can be preserved by electing the members of the lower branch as they are now chosen. It might be well to give to this chamber the exclusive right of originating all appropriations and other money bills. The power to concur or reject would then be exercisable by the other body, who, as tax-paying real estate owners, could keep watch and ward upon the public funds, and prevent the fingers of needy politicians and rings from fastening on them as they now do. Harrisburg has so long and easily preyed upon the other cities of the commonwealth, that it is idle to expect for any favor to plans for economical reform, except in the constitutional convention. I should be very glad to hear whether anything has been done to initiate bringing the subject before that body.

Mr. J. G. Rosengarten moved a vote of thanks to Col. Jordan for his paper, and asked that a copy of it be entered in the minutes of the association, which was adopted, after which the meeting adjourned.

The following letter explains itself:

GERMANTOWN, SECOND MONTH 21, 1872.

Jos. G. Rosengarten, Secretary Social Science Association—

My Dear Sir: I was much interested in looking over Mr. Jordan's address upon the important subject of the proposed amendments to our State Constitution; but observe with regret that he made no mention of a subject which to me seems among the most important that should claim the attention of the convention. I mean the subject of a change in the pardoning power. It appears remarkable that our forefathers in their wisdom should have confided a power, fraught with so much importance to the interests of society, to a single individual. Even aside from considerations of honesty, is it not preposterous to suppose that one man, oppressed with cares upon various momentous subjects, such as occupy the mind of the governor of a State, could judge more correctly than a local court, which has, perhaps, spent days in examining into the minutest circumstances of the case, of the innocence or guilt of a criminal, or of the justice of his sentence? But at a time like this, when political power is so often poisoned at its very source, and when corruption stalks abroad and unblushingly invades the very highest places of honor and trust in the land, is there not double reason to fear a fatal use of this power in destroying the salutary effects of the penal laws of the Commonwealth? Doubtless the founders of the constitution contemplated its exercise only upon rare occasions. But we all know how far this is from being the case, and how surely the free use of money exempts from merited punishment the most dangerous criminals and peculators upon the largest scale. I think it must be evident to most honest and intelligent citizens that the pardoning power should be transferred from the governor, either to the court which passed the original sentence, or to a special court of pardons. The subject is one of great moment, and has often been one of anxious consideration from me, and I doubt not has often claimed your attention in connection with social science. I do not know in what quarter an interest would be most surely exerted in its behalf, but should you agree with me as to the necessity of a change of this kind, I would bespeak for it your influence in whatever direction it may be needed, of which you are in a position to judge better than myself. Conventions to amend the State constitution occur, very properly, so seldom that it is desirable not to lose the opportunity, when they are held, of introducing such amendments as time and experience may have shown to be expedient.

With much respect I am yours, very truly,

PHILIP C. GARRETT.